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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/751,809	12/29/2000	George A. Durden	36968/198826	5336
7590		10/06/2004	EXAMINER	
Scott P. Zimmerman		BROWN, RUEBEN M		
P.O. Box 3822		ART UNIT		
Cary, NC 27519		PAPER NUMBER		
		2611		

DATE MAILED: 10/06/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/751,809	DURDEN ET AL.	
	Examiner	Art Unit	
	Reuben M. Brown	2611	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 April 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>41201 61902; 82202</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claim Objections

1. Claim 5 is objected to because of the following informality: the term 'discrete potion' should be changed to 'discrete portion'. Appropriate correction is required.
2. Claims 15-16 are objected to because of the following informalities: The instant claim 15, which depends from claim 13 recites, "the control data". However, claim 13 recites, "the program data". It appears that "the content data" recited in claim 15 should be amended to be consistent with claim 13.

The instant claim 16, which depends from claim 13 recites, "the control data". However, claim 13 recites, "the program data". It appears that the "content data" recited in claim 16 should be amended to be consistent with claim 13.

The instant claim 16, also recites "the control data", it is unclear exactly to what "the content data" references. Appropriate correction is required.

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Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-5 & 13-18 are rejected under 35 U.S.C. 102(e) as being anticipated by Block, (U.S. Pat # 6,675,384).

Considering claim 1, the claimed method for formulating and delivering data for use in controlling the presentation of a program and portions thereof comprising formulating frames of program data and associating each frame with a discrete portion of the program, reads on the disclosure in Block, which teaches that the video program may have labels identifying and rating the video program as a whole, (general information labels 220) and also the frames of the video program on an individual frame-by-frame basis, (frame specific information 230), col. 5, lines 17-52. Block goes on to discuss that the frame specific information 230 relates to various parameter of the frames and thereby meets the limitation of ‘wherein the program data comprises content data, attribute data or both’; see col. 6, lines 1-35.

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The claimed feature of 'delivering the program data to a transmission facility and distributing the program data to viewers' is broad enough to read on the programming and labeling data being delivered to the modulator/transmitter 50 and it being transmitted to subscriber, (Fig. 1; Fig. 2; col. 3, lines 55-67; col. 4, lines 8-20).

Considering claims 2 & 14, the labels TIL in Block describe the attributes of the segment(s) of the video program to which they are associated, col. 4, lines 46-61; col. 6, lines 1-35 & col. 10, lines 24-38.

Considering claim 3, Block teaches distributing alternate scenes for use in the system, col. 4, lines 20-35; col. 12, lines 10-20.

Considering claim 4, Block teaches using an alternate video track and an alternate audio track, col. 16, lines 40-67.

Considering claim 5, in light of the above objection the claim is analyzed as best understood. Block teaches replacing an offensive segment of a video program with alternate programming, when the attribute associated with the instant segment exceeds a certain default threshold, set by the user, col. 4, lines 20-28; col. 8, lines 50-60; col. 10, lines 12-24; col. 13, lines 10-53; col. 15, lines 50-60.

Considering claim 13, the claimed method of remotely controlling the presentation of a program to viewer comprising 'sending program data over a

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communications network to a consumer electronic device associated with the viewer' is met by col. 2, lines 50-60; col. 3, lines 38-67; col. 4, lines 45-61. The claimed collecting from a viewer interface the viewer's presentation preferences reads on Block, col. 13, lines 12-54. The claimed 'comparing the program data with the viewer's preferences and accordingly modifying the program' display is met by Block, Abstract; col. 4, lines 20-45; col. 9, lines 1-40; col. 10, lines 1-12; col. 13, lines 14-50.

Considering claim 15, the claim is analyzed as best understood, in light of the above objection. Block teaches transmitting the label information with respect to audio & video, separately and independent; see col. 16, lines 40-67, which meets the claimed subject matter.

Considering claim 16, the claim is analyzed as best understood, in light of the above objection. The claimed feature of the control data comprising control signals by which at least one segment may be modified based upon the content data, is met by Block col. 13, lines 12-65 & col. 15, lines 50-67.

Considering claim 17, Block discloses the claimed subject matter, col. 4, lines 20-45; col. 8, lines 50-67 thru col. 9, lines 1-35. The claimed control signals correspond with the 'opcodes', discussed in Block.

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Considering claim 18, the claimed feature of delivering program data synchronized with an associated program is met by col. 3, lines 40-65 & col. 5, lines 1-25.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 6-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Block.

Considering claim 6, Block teaches that the alternate scenes are selected by the system, based upon the desires of viewer, but not explicitly by the viewer. Official Notice is taken that scene selection of alternate scenes was known in the art at the time the invention was made. It would have been obvious for one of ordinary skill in the art at the time the invention was made, to modify Block with the well known technique of direct viewer scene selection, at least for the desirable benefit of allowing the user to customize the viewing experience as much as possible.

Considering claim 7, Block teaches displaying a graphic message to a viewer informing of modification, col. 17, lines 60-67 thru col. 18, lines 1-10. The claimed

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feature also reads on the mask code generating a mask (i.e., shape to be overlaid over a portions of a video screen), which clearly indicates to the viewer that the video presentation is modified, col. 18, lines 42-55.

Considering claim 8, in light of the rejection presented in claim 6, and the graphic mask taught by Block, (col. 18, lines 1-55), it would have been obvious for one of ordinary skill in the art at the time the invention was made, to operate Block such that the scene selected by the viewer is indicated, at least for the purpose of confirming or assuring the viewer of his/her selection.

7. Claims 10-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Block, in view of Hite, (U.S. Pat # 5,774,170).

Considering claim 10, Block does not discuss the use of targeted advertisement, identified by the content data that includes demographic data identifying the viewer. Nevertheless, Hite teaches providing consumers with substitution-targeted advertisements based upon their demographics, Abstract; col. 3, lines 40-64; col. 4, lines 5-60; col. 9, lines 42-55; col. 10, lines 32-64. It would have been obvious for one of ordinary skill in the art at the time the invention was made, to modify Block with the known feature of providing targeted advertisements to viewers, for the improvement of reducing the amount of wasted commercials sent to viewers, i.e., commercials that have content of which the viewer has no interest, as taught by Hite, col. 1, lines 25-64 & col. 3, lines 20-35.

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Considering claim 11, the recited subject matter reads on Hite, col. 4, lines 1-61; col. 6, lines 10-40; col. 8, lines 64-67 & col. 10, lines 54-67, which teaches collecting subscriber preference data and presenting commercials based in part upon the collected data.

Considering claim 12, see Hite col. 9, lines 54-65.

8. Claims 9 & 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Block, in view of Cragun (U.S. Pat # 5,973,683).

Considering claims 9 & 19, Block teaches that the TIL may be transmitted as part of the video signal or on an out-of-band channel, (col. 5, lines 8-17) but does not explicitly discuss its transmission with an EPG. However, Cragun '683 teaches that the content data rating the portions of a program may be transmitted as part of an EPG, (col. 10, lines 1-36). It would have been obvious for one of ordinary skill in the art at the time the invention was made, to modify Block with the feature of providing the content/rating data as part of an EPG, instead of with the video picture for the advantage of providing the user with a wider range of rating sources (other than the broadcaster), particularly independent rating sources, as taught by Cragun '683 (col. 9, lines 53-67 thru col. 10, lines 1-21 & col. 14, lines 47-67).

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Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

A) Collings Teaches providing a customer with alternate programming, created from a local screen generator, col. 11, lines 50-55.

B) Ford Provides alternate programming from locally stored content.

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Any response to this action should be mailed to:

Commissioner of Patents and Trademarks
Washington, D.C. 20231

or faxed to:

(703) 872-9306, (for formal communications intended for entry)

Or:

(703) 746-6861 (for informal or draft communications, please label
"PROPOSED" or "DRAFT")

*Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive,
Arlington, VA., Sixth Floor (Receptionist).*

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Reuben M. Brown whose telephone number is (703) 305-2399. The examiner can normally be reached on M-F (8:30-6:00), First Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Grant can be reached on (703) 305-4755. The fax phone numbers for the organization where this application or proceeding is assigned is (703) 872-9306 for regular communications and After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-4700.

Reuben M. Brown

